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Letter dated 18 January 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 25 July 2005 (S/2005/481).

The Counter-Terrorism Committee has received the attached fourth report from the Republic of Moldova submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Note verbale dated 17 January 2006 from the Permanent Mission of the Republic of Moldova to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission to the Republic of Moldova to the United Nations presents its compliments to the Chairman and has the honour to transmit herewith, for consideration, the attached fourth report of the Republic of Moldova, submitted in response to the latter's letter dated 14 March 2005 (see enclosure).

Enclosure

Fourth report of the Republic of Moldova on the implementation of Security Council resolution 1373 (2001)

Introduction

The Republic of Moldova informs that along the period after the third national report on the implementation of the Resolution 1373(2001) the following changes have occurred:

1. The Republic of Moldova has become part to the next international treaties on the counteracting terrorism matter:

- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, Rome, 1988 (The Law of the Republic of Moldova nr. 192 – XVI of 28 July 2005);
- Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, Rome, 1988 (The Law of the Republic of Moldova nr.193 - XVI of 28 July 2005);
- Amendment Protocol to European Convention for the Suppression of Terrorism, Strasbourg, 2003 (The Law of the Republic of Moldova nr. 13-XV of 06 February 2004).

2. Through the Law of the Republic of Moldova nr.436-XV of 24 December 2004 modifications and completions were operated. They refer to the Law nr.733-XV of 15 November 2001 "on Prevention and Combating Money Laundering and Terrorism Financing", with the view of extending the scope of the law on the terrorism financing activity. So, the law denomination was completed with the words "terrorism financing". Also, the definition of the activity of terrorism financing was introduced, the law articles being completed with respective provisions.

Implementation Measures

Efficiency in Financial System Protection

1.1. A special sub-unit of the Center for Combating Economic Crimes and Corruption (CCECC) - The Service of Prevention and Combating Money Laundering (SPCML) exerts the functions of the Financial Information Unity in the Republic of Moldova. These functions were taken over from the General Prosecutor's Office as a result of implementation of the judiciary reform initiated in June 2002.

CCECC has been created in conformity with the Law nr.1104-XV of 6 June 2002. It is a law enforcement agency, which works for the Government and is specialized in fighting against fiscal, economic and financial crimes, as well as corruption.

CCECC is also the authority entitled with the execution of the Law nr.633-XV of 15 November 2001 "on Prevention and Combating Money Laundering and Terrorism Financing". This body has the function of activity coordination of the authorities of prevention and combating money laundering and terrorism financing.

SPCML receives from rapporteur organizations specified by the Law nr.633-XV of 15 November 2001 (banks, investment funds, insurance companies, houses of exchange, notaries, brokers) information concerning the financial operations regarding limited, cumulative and suspicious transactions. Information is processed and depending on its character it is delivered to qualified ministries for further checking. The co-working continues in this direction.

At present the signing of bilateral agreements between SPCML and competent ministries concerning the prevention and combating money laundering and terrorism financing is finalized. Such agreements have already been signed with the Ministry of Internal Affairs and the National Bank of Moldova.

At the same time, the signing procedure of bilateral agreements between SPCML and a lot of similarly services from different states (Russia, Bulgaria, Romania, Korea, Ukraine) concerning the operative change of information regarding the prevention and combating money laundering and terrorism financing is finished. The first agreement for signing is foreseen for the first period of September 2005, in Chisinau between SPCML and the National Office for Preventing and Combating Money Laundering from Romania.

As well, national authorities responsible for the supervision of the rapporteur organizations are obliged to check the execution of stipulations of the Law nr.633-XV of 15 November 2001.

In its turn, SPCML has the right to request from rapporteur organizations additional information (documents, materials, other data) about natural persons and legal entities, which practice money laundering and terrorism financing activities. Financial and non-financial organizations show directly to the Center data concerning limited, cumulative or suspicious financial operations.

According to the legislation, SPCML hands over to prosecution agencies and other qualified bodies the information about natural persons and legal entities suspected or implicated in operations of money laundering and terrorism financing.

At the same time, in conformity with art.8 of the Law nr.633-XV of 15 November 2001, on the basis of analysis of financial information, SPCML is entitled to undertake additional measures about the existing mechanism for combating money laundering and terrorism financing including new methods applied by money launders.

At the same time, the SPCML organizes different conferences for the rapporteur organizations for the monitoring of new tendencies of money laundering and terrorism financing and their identification. The body elaborated the Guide of Suspicious Transactions for the rapporteur organizations referring to the criteria of identification of dubious transactions, other normative acts, including those of internal usage.

As well, SPCML has large powers for preventing the respective phenomena including application of coercion measures (account seizure, sum and goods freezing, including their identification and following, etc.).

With a view to the efficient realization of its functions, SPCML of CCECC has on-line access to the databases of the Ministry of Informational Development, Fiscal Authorities, Customs Service, and Department of Frontier Guard and of other relevant institutions.

At the same time, we mention that according to previsions of Principle 15 of Basel Committal for Bank Supervision, the National Bank of Moldova in its activity examines the policies, practices and procedures of commercial banks, including strict rules as for "know-the-client", which promote ethical norms and professionalism in the financial sphere and prevent the deliberate or non-deliberate use of banks by criminal elements for purpose of money laundering or terrorism financing.

1.2. As a result of checking of the received information concerning suspicious operations, no cases of money laundering or terrorism financing have been detected.
During the period of 2004 – August 2005, 1555134 communications concerning suspicious financial operations have been received.
Among them:

- Transnistrian Zone – 700319;
- Offshore Zone – 508655;
- Other criteria: year 2004 – 211649;
  year 2005, August – 134511.

1.3. Taking into consideration the fact that SPCML of CCECC exerts the functions of the Financial Unity, the Republic of Moldova understands that CTC applies for the presentation of information concerning human, financial, technical resources of SPCML and not of the National Bank of Moldova.

At present, SPCML personnel consists of 14 persons, having a technical base and enough financial resources for exerting its attributions. Recently, SPCML has received technical assistance from the International Monetary Fund, USA embassy and the Council of Europe. This assistance was highly appreciated by Moldavian authorities.

1.4. At present, besides commercial banks that perform money transfers, this kind of activity is practiced by the State Enterprise "Moldova Post" that activates in conformity with the Law on Post nr.463-XIII of 18 June 1995 and the Government Decision nr.798 of 18 June 2002 "on the approval of Recommendations concerning the performance of post services". Moldova Post accomplishes money transfer/payments by changing money orders with Post administrations of foreign states. For the application of the same rules of performing payments/transfers afferent to the currency regulation (either banking or money orders), on 6 June 2002 the National Bank of Moldova approved the Instruction on International Money Orders that can be accessed on electronically at: http://www.bnm.org/rumanian/dogs/instructiuni/128_3146.ptf.

1.5. The basis of the juridical regulation of philanthropy and sponsor activities is determined by the Law of the Republic Moldova nr.1420-XV of 31 November 2002 "on Philanthropy and Sponsoring", as well as the Regulations on the mode of confirmation of donations for charitable and sponsoring purposes approved by the Government Decision nr.489 of 04 May 1998 with subsequent modifications.

As potential beneficiaries of charitable and sponsoring help, according to the provisions of the Fiscal Code, are considered to be:

- public authorities and public institutions financed from the national public budget;

- institutions of health care, education, science and culture;
- societies of blind, deaf, disabled persons, societies of veterans and other public associations, foundations, charitable organizations that deal with specific activities determined by the law, religious organizations.

Philanthropists and sponsors, as well as the consignee of the charitable help are to hold the accounting according to the Law on Accounting nr.426-XIII of 04 April 1995 and the Fiscal Code of the Republic of Moldova.

State fiscal institutions exert the control on the legitimacy of sponsoring and charitable activities.

The body that registers organizations, which have the right to receive charitable help and which can be sponsored must exert the control on the activities of these organizations for determining whether they correspond to the goals for which they were set up.

Foreign citizens, stateless persons, foreign and international organizations have the right to participate to charitable and sponsoring activities performed in the territory of the Republic of Moldova in conformity with the Law "on Philanthropy and Sponsoring".

1.6. Officers of national authorities with functions in the filed of prevention of money laundering and terrorism financing (CCECC; the Information and Security Service, the Ministry of Internal Affairs, the National Bank of Moldova) are perpetually trained in the said domain.

The Republic of Moldova benefits by technical assistance like instruction programs from the Council of Europe, the World Bank, the International Monetary Fund and other international organizations.

For example, we may list the delegation and participation of representatives of the Republic of Moldova in seminars organized in Austria, Belgium, Finland, France, Slovenia, and other states.

At the same time, officers of law enforcement agencies participate in a series of trainings and work sessions organized by national public authorities. During these events they obtain knowledge of the way of detecting and counter-acting terrorism financing activities.

1.7. For the reduction of negative phenomena in the filed of foreign trade with the main partner countries and the identification of unlawful export/import schemes, inclusively with the goal of resource transferring for terrorist organizations, in the Republic of Moldova an interaction mechanism between national law enforcement agencies and other institutions qualified with control functions has been elaborated.

Thus, the Ministry of Economy and Trade of the Republic of Moldova has created and brings up-to-date the database on "Underground Economy", upon the information received from the Ministry of Internal Affairs and CCECC, the Information and Security Service, the Customs Service and other law enforcement agencies. This database provides for the possibility of determining prior directions of fight against this vice and possible relations between economical agents, which practice unlawful activities including fictive exports/imports.

For the accomplishment of its attributions stipulated in article 8 of the Law "on Preventing and Combating Money Laundering and Terrorism Financing", during the year of 2004 and along the first 5 months of the year 2005, the National Bank of Moldova performed 20 complex controls. The activity of banks in the filed of preventing and

combating money laundering and financing terrorism, the sufficiency of their own programs elaborated by banks including "know-the-client" domain, were examined during this control. As a result of this checking, it was determined that according to internal procedures responsible persons have been denominated. In connection with their official duties they are in charge of adjustment of internal policies to the requirements and regulations against money laundering. Measures for the assurance of the reporting of financial operations in conformity with the said law have been undertaken. After the effectuated control, in 16 cases decisions have been adopted. By these decisions banks were warned about the detected deficiencies and the necessity to ameliorate policies in the filed of prevention and combating money laundering and terrorism financing.

In accordance with Recommendations for banks from the Republic of Moldova on the elaboration of programs for the prevention and combating money laundering, the banks have to take into consideration the generally accepted practice in the matter, considering the specific character of activity. At the same time, the banks have to improve their internal policies. In this respect, the National Bank has addressed to other banks the Evaluation Methodology of Conformity with Recommendations FATF 40 and Special Recommendations 8. The body applied for the improving of the internal control system by the amelioration of internal policies, the application of the latter referring to criteria described in the said document.

At the same time, the National Bank of Moldova delivered to commercial banks (on 28 January 2005 and 18 March 2005) the UN Security Council Resolutions that were handed over by the US embassy in the Republic of Moldova with the requirement to check the existence in the territory of Moldova of some possible bank accounts of persons engaged in terrorist actions and has offered the necessary support in the matter of combating terrorism financing.

Along the period after the third national report on the implementation of Resolution 1373 (2001), the Ministry of Foreign Affairs handed out 11 letters for the identification of some persons and entities engaged in terrorist actions or affiliated to some terrorist groups, a letter referring to the situation in Liberia and freezing of all funds and of other financial goods and economical resources acquired unlawfully by the ex-President Charles Taylor, members of his family and servants of the ex-Taylor regime [The UN Security Council Resolution 1532 (2004)]; a letter concerning persons and organizations involved in unlawful actions of arms trafficking and a letter concerning the embargo over selling and transmission to different persons and groups from the Democratic Republic of Congo of arms, munitions and military technique [The UN Security Council Resolution 1596 (2005)].

This information was send to all commercial banks and other qualified institutions from the Republic of Moldova with the request of checking the existence of some possible bank accounts of the said entities or persons and the informing of the Center for Combating Economic Crimes and Corruption in case of detection of transactions with their implication.

1.8 In the period of 2001-2005 no financial operations concerning the terrorism financing including money, financial assets and other economical resources of persons and organizations included in the lists adopted by the UN Security Council, Anti-terror Center of the States Members of the Commonwealth of Independent States and other international organizations were detected in the Republic of Moldova.

Efficiency of the Anti-terrorist Mechanism

1.9 At national level the Republic of Moldova implements an active policy for the prevention and the combating of terrorism in all its forms and manifestations. Entirely realizing the terrorism control imperative, Moldova proposed complete assistance to the global antiterrorist coalition and offered military and other type of support for the accomplishment of antiterrorist operations.

Moldova actively participates in the fight against the terrorism phenomenon. Our country completely respects for the human rights. In this sense we follow the Directives of the Committee of Ministries of the Council of Europe on the respecting for human rights in the fight against terrorism. They are translated into the state language and distributed to all the national authorities in charge.

Moldova is part to all effectual international treaties in the field of terrorism fighting.

Penal Norms

On 12 October 2001 the Parliament of the Republic of Moldova adopted the Law Nr. 539-XV "On Combating Terrorism" (The Official Monitor of the Republic of Moldova, 2001, Nr. 147-149, art. 1163) that defines the legislative and organizational framework of the terrorism combating activity in the Republic of Moldova, the way of activity coordination of the specialized structures on combating terrorism, actions of the central and local public authorities, public associations and organizations, responsible persons and other individuals, as well as the rights, the obligations and the warranties of persons referring to the activity of terrorism control.

The Criminal Code of the Republic of Moldova Nr. 985-XV, 18 April 2002 (The Official Monitor of the Republic of Moldova, 2002, nr. 128-129, art. 1012) includes a series of articles that determine the criminal liability for terrorism, financing and material supplying of terrorist acts, taking of hostages, deliberate deceitful announcement of the terrorist act or other crimes linked with terrorism.

Article 278 of the Criminal Code of the Republic of Moldova qualifies terrorism as the causing of some explosions, fires or the commission of other actions that jeopardize human life, cause some important material injury or other serious prejudice, if they are committed for the undermining of the public security, for the intimidation of population or for the compelling of some decisions on public authorities or physical persons, as well as the threatening with the commission of some acts with the same goals. These actions are sentenced from 5 to 10 years of imprisonment.

When the same action is committed with the following qualifications: repeated, by an organized criminal group, with the application of guns or explosive substances, with serious or medium harm to the corporal integrity or health, causing very important material injury – it is sentenced from 8 to 15 years of imprisonment.

If these actions are committed by a criminal organization and cause an imprudent manslaughter – it is sentenced from 12 to 20 years of imprisonment.

When the terrorist act is accompanied by a deliberate manslaughter – this action is sentenced from 16 to 25 years of arrest or a life confinement.

Persons that committed a terrorist act or other participants may acquire minimal criminal punishments, which are determined by this article, if they have warned the authorities about the respective actions and by this have contributed to the avoidance of

human deaths, prejudice to corporal integrity or health, other serious consequences or to the exposure of other perpetrators. Person that participated in the preparation of the terrorist act does not incure criminal liability if by timely announcement of the authorities or by other means he/she contributed to the avoidance of the accomplishment of the terrorist act or if his/her actions do not include another element of the corpus delicti.

Article 279 of the Criminal Code provides that the activity of financing and material support of the terrorist acts, the deliberate presentation or raising, in different direct or indirect ways, of financial recourses or materials for their use in the commission of terrorist acts is sentenced from 10 to 25 years of imprisonment.

Article 280 of the Criminal Code stipulates that the taking of hostages or the detention of a person for the compelling of the state, the international organization, the juridical or physical person or a group of persons to commit or to abstain from committing an action as a condition for the liberation of the hostage is sentenced from 5 to 10 years of confinement.

The repeated taking of two or more hostages, deliberately of a minor person, of two or more persons with a material interest, with the application of a harmful violence to the life or health of a person, with the application of a gun or other objects used as guns is sentenced from 12 to 20 years of confinement with (or without) a fine of 500 to 1000 conventional units.

At the same time, the taking of hostages committed by an organized criminal group or by a criminal organization, with a serious prejudice to the corporal integrity or health, with the imprudent causing of the victim' s death, with the causing of other grave consequences is sentenced from 16 to 25 years of confinement.

Person that deliberately or as a response to the authority requirements has freed the hostage, is not liable to criminal punishment, if his/her actions do not include another element of the corpus delicti.

Criminal Procedure Laws

In the Republic of Moldova there is no special procedure for the persons denounced for the commission of crimes with terrorist characteristics. The same provisions of the Code of Criminal Procedure referring to the persons that committed very grave and exceptionally grave crimes are applied to this category of offenders.

Institutional Framework and Coordination of Terrorism Combating Activity

According to the previsions of article 6 of the Law Nr. 539/2001, *the President of the Republic of Moldova* coordinates the entire activity of terrorism combating.

The Government is the main authority that is responsible for the organization of the activity of terrorism combating and for the provision of necessary forces, means and resources.

The Information and Security Service of the Republic of Moldova is the national authority that directly accomplishes the terrorism prevention activity. The Service fights against terrorism by actions of prevention, detection and stopping of crimes with terrorist characteristics, as well as of the international terrorist activity. The Service contributes to the assurance of safety of the Republic of Moldova facilities located in the territory of

other states, of its citizens employed in these institutions and their family members, gathers information referring to international terrorist organizations.

The Anti-terror Center of the Information and Security Service of the Republic of Moldova is the structure responsible for the leading, coordination and accomplishment of the terrorism-fighting measures.

Authorities that perform activities of combating terrorism in connection with their official duties are the following:

a) *General Prosecutor` Office* – performs the activity of combating terrorism through the directing and the enforcement of the criminal pursuit;

b) *Ministry of Internal Affairs* – fights against terrorism by preventing, detecting and stopping offences with terrorist characteristics, which follow material interests. The Department of Exceptional Situations of the Ministry of Internal Affairs performs activities of civil protection, organizes rescue operations, accomplishes other urgent measures for the elimination of consequences of terrorist acts;

c) *Ministry of Defense* – assures the protection of arms, munitions, explosive substances, and military assets and of the air space of the country in case of antiterrorist operations;

d) *Ministry of Informational Development* – assures the informational assistance of the authorities, which perform the activity of combating terrorism, offers them informational resources and specialized technical assistance, which is necessary for the creation of databases and informational networks;

e) *Center for Combating Economic Crimes and Corruption* – undertakes measures for preventing and combating money laundering and terrorism financing;

f) *Frontier Guard Service* – fights against terrorism by stopping the terrorists' attempts to cross the state border of the Republic of Moldova.

g) *The Service of State Protection and Guard* – guarantees the safety of physical persons and facilities on guard, gathers, analyzes and uses information referring to the terrorist activity for the prevention, detection and stopping of terrorist attempts;

h) *The Customs Service* – fights against terrorism by actions of prevention, detection and stopping of attempts to transport guns, explosive, toxic, radioactive substances and other objects, which may be used for the commission of crimes with terrorist characteristics across the state border of the Republic of Moldova;

i) *The Department of Penitentiary Institutions of the Ministry of Justice* activates in cooperation with the Anti-terror Center of the Information and Security Service of the Republic of Moldova.

Other authorities of the public administration may participate in the prevention, detection and stopping activity of terrorist acts in connection with their official duties and in the way the Government of the Republic of Moldova determines it.

Antiterrorist Operations

The way of processing antiterrorist operations is determined in Chapter 3 of the Law Nr.539-XV "on Combating of Terrorism" of 12 October 2001, also in some normative acts of the Government and of the authorities which accomplish the activity of terrorism counteracting, these acts being secret. We will quote some stipulations of Chapter 3 of the said law:

Article 10. Leading of Antiterrorist Operations

(1) An operative group is created for the direct conduction of antiterrorist actions. This group is leaded by the representative of the Anti-terror Center within the Information and Security Service of the Republic of Moldova.

(2) The activity of the group is determined by the Exemplary Regulations of the operative group for the conduction of antiterrorist operations that are approved by the Government.

(3) Servicemen, employees and specialists involved in the antiterrorist operation from its beginning are subordinated to the chief of the operative group.

(4) The chief of the operative group sets the perimeter of the proceeding aria of the antiterrorist operation and decides on the use of forces and means involved with this aim.

(5) The interference of any other person, regardless his/her function, in the leading of the antiterrorist operation is not admitted.

Article 11. Forces and Means Involved in the Antiterrorist Operation

For the accomplishment of the antiterrorist operation, the operative group may involve forces and means of authorities of public administration in connection with their duties in combating terrorism, in the way the Government stipulates it. These authorities offer to the disposal of the group human resources, munitions, special means, telecommunication and transport means, and other necessary technical-material resources for the accomplishment of the antiterrorist operation.

Article 12. Legal Regime in the Proceeding Aria of the Antiterrorist Operation

In the proceeding aria of the antiterrorist operation persons involved in the operation have the right:

a) to impose, according to the case, limitation measures or temporary interdiction on the vehicle and pedestrian circulation;
b) to check the identity cards and other acts, and in case of their absence – to restrain those persons for the determination of their identity and other circumstances;
c) to restrain and to bring to agencies of internal affairs persons who committed or are committing offences or those who oppose to the legal requirements of persons that take part in the operation, also persons that committed or are committing actions of penetration or attempts of unauthorized penetration into the proceeding aria of the antiterrorist operation;
d) to enter (penetrate) unhindered in dwellings and other places and on the grounds belonging to physical and juridical persons, irrespectively of type of property and legal form of organization, to use vehicles of physical and juridical persons for the stopping of terrorist acts, the prosecution of persons suspected of committing terrorist acts, if the tergiversation can create a real danger for the human life and health.
e) to perform the checking of all vehicles, persons and their goods at the entrance and at the exit from the proceeding area of the antiterrorist operation, inclusively with the use of technical means;
f) to use with service aim means of telecommunication and transport belonging to physical and juridical persons, irrespectively of type of property and legal form of organization.

(2) The chief of the operative group conducts the activity of representatives of the mass media in the operational aria.

Article 13. Negotiation with Terrorists

(1) During the antiterrorist operation, for saving human lives and health, their goods, for the evaluation of the possibility to stop the terrorist act without using force, the negotiation with terrorists is accepted.

(2) Only persons specially authorized in this way by the chief of the operative group are admitted to the negotiation with terrorists.

(3) Extradition of some persons, transmission of guns, of other objects and means the usage of which may jeopardize human life and, as well as the completion of political demands is not subject of negotiation.

(4) Negotiation with terrorists cannot serve as a reason or condition for their remission from liability for their actions.

Border and Immigration Control, Check on Prevention of Drug, Arms, Biological and Chemical Weapons Trafficking, Forerunners and Illegal Use of Radioactive Materials

The Republic of Moldova performs an efficient control at the national border for preventing and combating illegal trafficking of drugs, forerunners, arms, biological and chemical weapons, the illegal entrance and exit of people.

The relevant legal framework on this matter consists of:

- the Law nr.108-XIII of 17 May 1994 "on State Border of the Republic of Moldova";
- the Law nr.110-XIII of 18 May 1994 "on Arms";
- the Law nr.269-XIII of 09 November 1994 "on Entrance and Exit from the Republic of Moldova";
- the Law nr.1440- XIII of 24 December 1997 "on Radioprotection and Nuclear safety";
- the Law nr.382-XVI of 06 May 1999 "on Circulation of Narcotic and Psychotropic Substances and of Forerunners";
- the Law nr.1163-XIV of 26 June 2000 "on Control of Export, Re-export, Import and Strategically Transit of Goods";
- the Law nr.1518-XV of 06 December 2002 "on Migration".

1.10. According to article 303 of the Code of Criminal Procedure Nr. 122-XV of 14 March 2003, the operative investigation measures related to the limitation of the private life inviolability of a person, penetration in a room against the will of persons living in it, are accomplished with the authorization of the investigating magistrate:

- domicile examination and installation of audio or video devices, photo or film making apparatus, etc.;
- domicile observation by the use of technical devices;
- interception of telephonic or other calls;
- control on telegraphic communications and other calls;
- collection of information from telecommunication institutions.

According to article 6 of the Law of the Republic of Moldova nr. 45-XIII of 12 April 1994, along the presented operative investigation measures, the following procedures may be accomplished:

- interrogation;
- elicitation of information;

- visual surveillance;
- surveillance and documentation by using modern technical means and methods;
- sample gathering for comparative analysis;
- accomplishment of checking acquisitions and control on the delivery of goods and manufacture of large or limited circulation;
- checking of objects and acts;
- person identification;
- checking of rooms, buildings, fields and transport means;
- checking of the correspondence of condemnatories;
- organization of calls with the application of the detector of simulated behavior;
- marking with chemical or other special substances;
- operative experiment;
- operative infiltration in criminal organizations of titular officers from operative subdivisions and of persons who confidentially cooperate with agencies that perform the operative investigation activity, using identity acts and other coverage documents;
- control on the transmission of money or other extorted material values.

We would like to mention that the legislation of the Republic of Moldova does not stipulate specific investigation measures referring to the terrorist acts. Operative investigation measures determined for grave, very grave and exceptionally grave crimes are applied in the activity of preventing and combating terrorism.

According to article 6 of the Law 45-XIII/1994, operative investigation measures are effectuated in case when it is impossible to assure in another way the accomplishment of the following tasks:

1) disclosure of criminal attempts, prevention and stopping, detection of offences and persons that organize, commit or committed these offences, as well as the assurance of compensation of the damage caused by offence;

2) searching of persons hiding from agencies of preliminary inquiry, investigation units and trial or those dodging the penal sanction, and of missing persons;

3) gathering of information about events and actions that jeopardize the state, military, economical and ecological security of the Republic of Moldova.

The legal bases for the application of operative investigation measures are stipulated in article 7 of the Law nr.45-XIII/1994:

a) unclear circumstances concerning the opened criminal pursuit;

b) information known by the agencies that perform the operative investigation activity:

- on prepared, perpetrating or committed unlawful action, as well as about persons that are preparing, committing or committed this action, if data for opening a criminal pursuit are incomplete;

- on persons hiding from bodies of penal investigation, preliminary inquiry or trial, or those dodging the penal sanction;

- on missing persons and on the detection of unidentified bodies.

c) tasks of the investigator, the agency of penal inquiry, prosecutor's indications, or the court decision in penal cases being under their procedure;

d) interpellations of agencies that perform the operative investigation activity on the basis of this article;

e) interpellations of international legal organizations and of law enforcement agencies of other states, according to the international treaties to which the Republic of Moldova is a party.

Thus, operative measures can be accomplished before the opening of the criminal case, provided the existence of respective operative information. The time for the accomplishment of operative investigation measures is limited by service necessities.

According to international treaties, which the Republic of Moldova is a party to, our country cooperates with law enforcement agencies and special services of other states, as well as with international organizations, which activate in the field of combating terrorism.

The Republic of Moldova ratified the majority of international and European conventions on the matter of suppression of terrorism, signed bilateral and multilateral agreements in this field.

For the assurance of person, society and state security, the Republic of Moldova pursuits on its territory persons involved in terrorist activities including cases when the terrorist acts were planed or performed out of its territory, but damaged the country, as well as other cases stipulated by international agreements, which the Republic of Moldova is a party to.

The operative investigation measures may be applied in the transborder framework with the agreement and in cooperation with corresponding agencies of the coterminous state.

1.11. The mode and conditions for the state protection of the persons that participated in the detection, prevention, stopping, investigation and exposure of crimes, in the judicial inquiry of criminal cases is determined by the Law of the Republic of Moldova Nr. 1458-XIII of 28 January 1998 "on State Protection of Injured Persons, of Witnesses and Other Persons that Assist the Criminal Case" and art.215 of the Code of Criminal Procedure.

According to article 215 of the Code of Criminal Procedure, if there are sufficient reasons to consider that the injured person, the witness or other persons taking part in the lawsuit, as well as their family members or close relatives may be or are threatened of death, assault or damage or destruction of goods or of other illegal acts, the prosecution agency and the law court are bounden to adopt measures, which are stipulated by legislature for the protection of life, health, honor, dignity and the estate of these persons, as well as for the identification of the culpable persons and their punishment.

The demand for the protection of the nominated persons is presented and is satisfied by the prosecution agency or by the court confidentially. The decision on the provision of the state protection is handed out immediately to the agency that has this ability, according to the Law on the state protection of injured persons, of witnesses and other persons that assist the criminal case.

Depending on objective circumstances, for the assurance of the safety of protected persons, the following state protection measures may be applied:

1) ordinary:

a) personal guard, guard of the accommodation and of the estate;

b) liberation of special means of individual protection, of communication and information about the peril;

c) temporary placement in safe areas;

d) concealment of data referring to the protected person;

2) *extraordinary*

a) change of work (service) or study place;

b) transposition to another place of living, with the compulsory allocation of an accommodation (house, apartment);

c) change of identity acts by the change of name, first name and surname, change of the exterior aspect;

d) close lawsuit.

For the assurance of state protection measures, also operative investigation measures may be accomplished, as the Law on Operative Investigation Activity stipulates it.

The protection measures may be applied only with the approval of the protected person, without injuring his/her rights, freedoms and personal dignity.

The cooperation with other states in the matter of state protection of witnesses, of injured persons and other persons that give help to the criminal pursuit is performed on the basis of bilateral and multilateral agreements, understandings and treaties to which the Republic of Moldova is a party. Recently, the agreement of collaboration between the States Members of the Commonwealth of Independent States on the protection of participant in the criminal pursuit was finalized. The republic of Moldova will become part to this agreement. Up till now the Republic of Moldova did not signed any bilateral on multilateral agreement on this matter.

Efficiency of Border, Customs and Emigrational Control

1.12. According to the data presented by the Customs Service and Frontier Guard Service of the Republic of Moldova, in 2001-2005 the nominated bodies did not detect any persons involved in terrorist activities.

Efficiency of International Cooperation in Penal Matters

1.13. On 12 June 2003 the new Code of Criminal Procedure of the Republic of Moldova nr.132-XV of 14 March 2003 entered into force. This Code reserved an entire Chapter to the modality of granting international legal assistance in penal matters (rogatory commissions, extradition, transfer of condemnable persons, recognition of penal sentences of foreign courts).

The second section on "Extradition" from Chapter IX "International Legal Assistance in Penal Matters" of the title III "Special Procedures" of Code of Criminal Procedure of the Republic of Moldova stipulates, inter alia:

Article 541. Submission of Extradition Requests

(1) The Republic of Moldova can appeal to a foreign state with an extradition request of a criminally pursued person regarding the offences for which the penal legislature determines a punishment of at least one year of prison or another more severe punishment or regarding whom a convicting sentence of at least 6 months of imprisonment was adopted, in case of extradition for the sentence service, if international treaties do not stipulate differently.

(2) The extradition request is submitted on the basis of the international treaty which the Republic of Moldova and the requested state are parts to or on the basis of written obligations in conditions of mutuality.

(3) If it is necessary to request the extradition of an unconvicted person, in conditions stipulated in paragraphs (1) and (2), all the files are compulsory delivered to the General Prosecutor's Office for the solving of the question about the submission of the extradition request to the corresponding institution of the foreign state. The Minister of Justice examines the question referring to the submission of the extradition request of convicted persons. In case there is no international treaty with the requested state, the question about the submission of extradition request is solved through diplomatic channels.

Article 544. Execution of the Extradition Request of Persons being in the Territory of the Republic of Moldova

(1) Foreign citizen or stateless person who is criminally pursued or was convicted in a foreign state for the commission of an indictable act in that state can be extradited to that foreign state at the request of qualified authorities, for the following or the service of the sentence that was pronounced for the committed act or the adoption of a new sentence.

(2) Foreign citizen or stateless person who was convicted in a foreign state for commission of an indictable act in that state can be extradited to the foreign state that has taken over execution, at the request of the competent authorities of the state, for the service of the sentence that was pronounced for the committed act or the adoption of a new sentence.

(3) Extradition for penal pursuit is accomplished only if the act is defined as punishable within the scope of the legislation of the Republic of Moldova and the maximal punishment is not less than one year of prison or if, after a similar inversion of things, the act would be indictable, according to the legislature of the Republic of Moldova.

(4) Extradition for sentence service is offered only if extradition is permitted in conditions of paragraph 3 and if the punishment is a confinement. Extradition will be given in case when the detention term for execution or the cumulative detention terms for execution are not less than 6 months, if international treaties do not stipulate differently.

(5) If the extradition of the person is requested cumulatively by more states, for the same action or for different actions, the Republic of Moldova will decide on extradition taking into account all circumstances, including the gravity and the location of the offence, the corresponding data from the request, the citizenship of the requested person and the possibility of further extradition to another state.

(6) If General Prosecutor or, after case, Minister of Justice considers that the person requested by the foreign state or international court cannot be extradited, he/she refuses the extradition trough a motivated decision. If he/she considers that the person can be extradited, he/she submits a demand to the territorial court to which the Ministry of Justice is referring and attaches the request and the documents of the solicitant state.

(7) The court solves the extradition request with the participation of the prosecutor, the person whose extradition is required and his/her defender. When the person whose extradition is requested does not have any defenders, he/she benefits of a defender ex oficio. The extradition request related to an arrested person is solved urgently and with priority. The examination of the extradition request is determined in art. 471 and

472 which are applied adequately. The irrevocable conclusion of the court is sent to the General Prosecutor or Minister of Justice for execution of for the information of the solicitant state.

Article 546. Extradition Refusal

(1) The Republic of Moldova does not extradite its own citizens and persons whom it granted the right to asylum.

(2) Extradition will be also refused if:

1) offence was performed in the territory of the Republic of Moldova;

2) a court decision of conviction, absolution or closing of the criminal pursuit for the offence committed by the person requested for extradition was already pronounced by a national court or a court of a third state; there is an order of the prosecution agency for the closing of the criminal pursuit, or national agencies perform the criminal pursuit of this act;

3) according to the national legislature, the prescription term of the liability for this offence concluded or amnesty was accomplished.

4) in the scope of the law, penal pursuit can be open only under the preliminary complaint of the victim, and such a complaint is missing.

5) the offence for which the extradition of the person is requested is defined by the national law as political offence or an act connected to this offence;

6) General Prosecutor, Minister of Justice or the court that solves the extradition request has serious reasons to think that:

a) extradition request was submitted with the aim of punishing a person on the account of race, religion, gender, nationality, ethnical origin or political opinions;

b) situation of person risks to deteriorate for one of reasons mentioned at point (a);

c) if the person is extradited, he/she will be submitted to torture of inhuman and infamous treatment in the solicitant state;

7) Requested person acquired the quality of political refugee;

8) State requiring extradition does not assure mutuality in the matter of extradition.

(3) When the act for which extradition is requested is liable to death punishment in the scope of the solicitant state law, the extradition of the person can be refused if the solicitant part does not offer sufficient guarantees that the death penalty will not be applied to the extradited person.

1.14. As it was settled at point 1.13 of the report, the respective chapter of the Code of Criminal Procedure determines the mode of mutual legal assistance in penal matters. At the same time, we would like to mention that according to the Activity Plan of the Government for the third trimester of 2005, the Ministry of Justice of the Republic of Moldova has to present to the Government examination the draft of the law on international legal assistance till 28 September. This draft will materialize the respective stipulations of the Code of Criminal Procedure.

Chapter IX of the Code of Criminal Procedure stipulates, inter alia:

Section 1. General Notions and the Rogatory Commission

Article 531. Juridical Regulation of the Mutual Legal Assistance

(1) Relationships with foreign countries or international courts concerning legal assistance in penal matters are settled in the present chapter. Provisions of international

treaties, which the Republic of Moldova is a party to, and other international obligations of the Republic of Moldova will have priority in comparison with the provisions of the present chapter.

(2) If the Republic of Moldova is a party to more international acts of legal assistance accepted by the state which the legal assistance is requested from or which requests legal assistance, and there are differences or incompatibilities between these acts, the stipulations of the treaty that provides for a better protection of human rights and freedoms are applied.

(3) A qualified court decides on the admissibility of granting international legal assistance. Ministry of Justice can decide on the non-execution of one court decision concerning the admission of granting international legal assistance in case fundamental national interests are subject of the matter.

Article 532. Submission of Demands on Legal Assistance

Demands concerning international legal assistance in penal matters are performed by the agency of Ministry of Justice or General Prosecutor's Office directly or by the agency of Ministry of Foreign Affairs of the Republic of Moldova, with exception of cases when another way of addressing is mutually stipulated.

Article 533. Amount of Legal Assistance

(1) International legal assistance may be requested or granted for the execution of some procedure activities determined by the legislation of criminal procedure of the Republic of Moldova and the corresponding foreign state, especially:

1) transmission of acts to natural persons or legal entities which are abroad;

2) investigation of persons as witnesses or experts;

3) accomplishment of investigation, search, arrest of documents and their transmission abroad, expertise performance;

4) call of persons being abroad for a voluntary exposure to the penal pursuit or to the judiciary court for audition or confrontation, as well as bringing back of imprisoned persons;

5) performance of penal pursuit upon a denunciation of a foreign state;

6) searching and extradition of persons that committed offences or for the service of a confining punishment;

7) recognition and execution of foreign sentences;

8) transfers of convicted persons;

9) other actions that do not contravene to the present Code.

(2) Application of preventive measures is not subject of international legal assistance.

Article 534. Refusal of International Legal Assistance

(1) International legal assistance may be refused if:

1) the request refers to offences considered in the Republic of Moldova as political or connected offences. The refusal is not permitted in case when the person is suspected, charged or convicted for the commission of some acts stipulated in articles 5-8 of the Statute of International Penal Court done in Rome;

2) the request refers to an action, which constitutes exclusively the infringement of military discipline;

3) the prosecution agency or the court requested for according legal assistance considers that its execution is able to jeopardize the sovereignty, security or public order of the state;
4) there are well-founded reasons to believe that the suspected person is pursued or criminally liable on the account of race, religion, citizenship or association to some group, or the embracement of some political convictions, or if his/her situation is worsening for some of enumerated reasons;
5) the corresponding act is sentenced with punishment of death in conformity with the legislation of the solicitant state, and the solicitant state offers no guarantees with view to the non-application or non-execution of capital punishment;
6) according to the Criminal Code of the Republic of Moldova, the act or the actions invocated in the request do not constitute an offence;
7) according to the national legislation, the person is not held liable.

(2) Refusal of international legal assistance will be motivated if this obligation results from the treaty which the Republic of Moldova is part to.

Section 2 stipulates the extradition procedure.

Section 3. Transfer of Convicted Persons

Article 551. Basis for the Transfer of Convicted Persons
(1) The transfer of convicted persons is effectuated on basis of the international treaty, which the Republic of Moldova and the corresponding state are parts to or in conditions of reciprocity determined by a written agreement between the Ministry of Justice of the Republic of Moldova and the corresponding institution of the foreign state;
(2) Reasons for the transfer of convicted persons can be:
1) the request of the person sentenced to prison by a court of the Republic of Moldova to be transferred for the service of the punishment in another state;
2) the request of the person sentenced to prison by a foreign court to be transferred for the service of punishment in the Republic of Moldova;
3) the transfer request submitted either by the state of conviction, or the state of punishment service.

Article 552. Conditions of Transfer
(1) The transfer may be performed in the following conditions:
1) the convicted person is citizen of the state of punishment service or is a permanent resident of this stat;
2) the convicting sentence is irrevocable;
3) the term of the confinement punishment, which the convicted person still has to serve, is no less than 6 months since the date of reception of the transfer request or is indeterminate;
4) the transfer is approved by the convicted person, or by the legal representative of the convicted person, if one of those two states considers it necessary in relation to the age, physical or mental state of the convicted person.
5) the act for which the person was convicted constitutes an offence within the scope of the Criminal Code of the state the citizen of which is convicted;
6) both states partners agreed upon the transfer.

(2) The approval of the person for which the sentence was adopted is not requested for the transfer for punishment service, if the person for which the sentence was adopted:
1) evaded from the state in which the sentence was adopted;
2) is subject of a deportation or expulsion order;

(3) In exceptional cases, parties may agree upon the transfer even if the punishment term the convicted person has to serve is less than 6 months.

Section 4. Recognition of Penal Sentences of Foreign Courts

Article 558. Cases and Conditions of Recognition of Penal Sentences

(1) Irrevocable penal sentences adopted by foreign courts, as well as those that may produce juridical effects, according to the criminal law of the Republic of Moldova, may be recognized by the national court on the basis of a demand of the Minister of Justice or General Prosecutor, in conformity with the international treaty or the agreement of mutuality.

(2) The penal sentence of a foreign state court may be recognized only if the following conditions are respected:
1) sentence was adopted by a qualified court;
2) sentence does not contravene to the public order of the Republic of Moldova;
3) sentence may have legal effects in the state according to the national criminal law.